

LAW OFFICES  
**HALEY BADER & POTTS P.L.C.**

4350 NORTH FAIRFAX DR., SUITE 900

ARLINGTON, VIRGINIA 22203-1633

TELEPHONE (703) 841-0606

FAX (703) 841-2345

E-MAIL: haleybp@haleybp.com

**DOCKET FILE COPY ORIGINAL**

LEE W. SHUBERT  
ADMITTED IN VA & DC

DIRECT DIAL  
(703) 841-3935  
E-MAIL ADDRESS  
lshubert@haleybp.com

June 21, 1999

OUR FILE NO.  
1031-107-63

Magalie R. Salas, Secretary  
Federal Communications Commission  
445 Twelfth Street, SW, Room TW-A325  
Washington, DC 20554

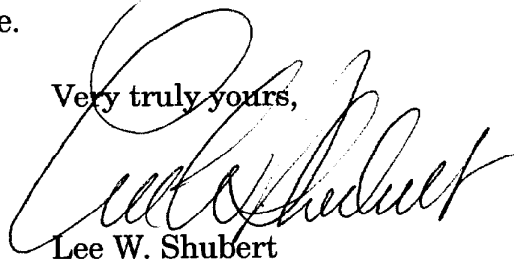
RE: MM Docket No. 99-134  
RM-9543  
RM-9572

Dear Ms. Salas:

Transmitted herewith, on behalf of Idaho Broadcasting Consortium, Inc., are an original and five copies of the **COUNTERPROPOSAL OF IDAHO BROADCASTING CONSORTIUM** in the above-referenced proceeding.

Should further information be desired regarding this matter, kindly communicate directly with this office.

Very truly yours,



Lee W. Shubert

Enclosures (6)  
LWS/blr

No. of Copies rec'd  
List A B C D E

0+5



Channel 294C1 to Victor, Montana and then replace the proposed channel 294C3 in Alberton, Montana, with Channel 285C3.<sup>1</sup>

As set forth in the attached Engineering Statement, these allotments will comply with all distance requirements without the necessity of any site restrictions for either Victor or Drummond. Moreover, the counterproposal will provide the communities of Alberton, Drummond, and Victor with new broadcast service, all of which will advance the public interest.

I. *Background and IBC's Counterproposal*

a. *IBC's Application for 294C, McCall, Idaho.*

IBC currently has a first-come/first served application pending for Channel 294C2, McCall, Idaho (File No. BPH-971023MD).<sup>2</sup> IBC expects that the grant of its McCall application will occur before the conclusion of the instant rulemaking proceeding.

With the grant of IBC's application for Channel 294C2 at McCall, the allotment of Channel 294C1 to Victor will be ripe for effectuation as that community's first local service. McCall would not be

---

<sup>1</sup> This is an alternative to the proposal of Mountain West Broadcasting, filed March 3, 1999. (RM-9537). See below.

<sup>2</sup> On March 13, 1998, Brundage Mountain Air, Inc. ("BMA") filed a petition to deny IBC's application, but soon thereafter the parties began negotiations to enter a settlement agreement. After several months of negotiations, IBC and BMA entered a settlement agreement whereby BMA would withdraw its petition to deny, and on October 7, 1998, the parties filed a Joint Request for Approval of Settlement Agreement with the Commission. Upon approval of the settlement agreement, the Commission may grant IBC's application for 294C2 at McCall, Idaho.

disadvantaged in this scenario as it receives local service from two existing FM stations: Stations KMCL (101.1 MHz), and KBSM (91.7 MHz), and is awaiting the construction of KDZY(FM) (98.3 MHz).

In addition, assigning Channel 294C1 to Victor, rather than Channel 269C3 as proposed in the NPRM, will allow the assignment of Channel 268C to Drummond, Montana as that community's first local service.<sup>3</sup> The counterproposal, therefore, eliminates the mutual exclusivity problem in the instant NPRM and enables both the Drummond *and* Victor communities to receive their first local broadcast service.

b. *Mountain West Broadcasting's Petition for Rulemaking to Allot 294C to Alberton, Montana.*

On March 3, 1999, Mountain West Broadcasting ("MWB") filed a Petition for Rulemaking (RM-9537) to allot Channel 294C3 to Alberton, Montana. A Notice of Proposed Rulemaking has not been issued in that proceeding because at the time of the Petition, the proposed allotment would have been mutually exclusive with a proposal initiated by IBC on November 20, 1998 (RM-9489) to add channel 294C2 at Frenchtown, Montana. IBC since has elected not to pursue the rule making and

---

<sup>3</sup> The allotment of Channel 294C1 to Victor contemplates the change of KBMG, Hamilton, MT, from Channel 240C3 to 242C (RM-9380), thereby eliminating a 54<sup>th</sup> Channel conflict that otherwise would exist relative to the use of Channel 294 at Victor, MT.

withdrew its proposal on May 10, 1999. Now that IBC has withdrawn its Frenchtown proposal, MWB is free to pursue an allotment in Alberton. MWB's proposed allotment of Channel 294C3, however, would be mutually exclusive with an allotment of Channel 294C1 to Victor as proposed herein. To solve this potential conflict, IBC proposes that Channel 285C3, rather than 294C3 be allotted to Alberton. By doing so, Channel 285C3 could be accommodated at a fully spaced site located 7+ kilometers northwest of Alberton.<sup>4</sup>

#### *IV. Conclusion.*

In summary, the counterproposal would better serve the public interest than the current allocations. IBC's counterproposal would provide the communities of Victor and Drummond with their first aural service, rather than limiting the service to one community as is proposed in the NPRM. In addition, Alberton would receive new broadcast service.

---

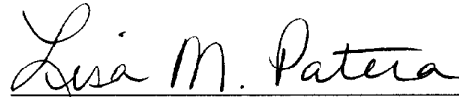
<sup>4</sup> The demonstration of Alberton as a community is set forth in the Petition of MWB.

Accordingly, IBC requests that the FM Table of Allotments be amended as follows:

| CITY              | PRESENT ALLOTMENT         | PROPOSED ALLOTMENT |
|-------------------|---------------------------|--------------------|
| Victor, Montana   | None                      | 294C1              |
| Drummond, Montana | None                      | 268C               |
| McCall, Idaho     | 219C3, 252,<br>266C1, 294 | 219C3, 252, 266C1  |
| Alberton, Montana | None                      | 285C3              |

Respectfully submitted,

IDAHO BROADCASTING CONSORTIUM



Lee W. Shubert  
Lisa M. Patera  
Its Attorneys

HALEY BADER & POTTS P.L.C.  
Suite 900  
4350 North Fairfax Drive  
Arlington, VA 22203-1633  
703/841-0606  
June 21, 1999

**LIEBERMAN & WALISKO**  
*CONSULTING TELECOMMUNICATIONS ENGINEERS*  
11403 GILSAN ST.  
SILVER SPRING, MD 20902

---

Idaho Broadcasting Consortium, Inc. - Victor, MT

**ENGINEERING STATEMENT**

This Engineering Statement is furnished in support of a Petition for Rulemaking looking toward the assignment of FM channel 294 (106.7 MHz) as a Class C1 allocation to Victor, Montana as that community's first aural service. Assigning channel 294C1 to Victor will allow the assignment of Channel 268C to Drummond, Montana as proposed in RM-9572.

In support whereof, the following exhibits are submitted.

**Exhibit I:** An FM channel spacing study showing the channel may be accommodated at a site whose coordinates are NL 46° 10' 07" WL 114° 17' 06". This study was conducted under 47 C.F.R. Section §73.207. As indicated, the change of KBMG-FM from channel 240C3 to channel 242C (RM-9380) will eliminate a 54th channel conflict as prohibited in 47 C.F.R. Section §73.207. The instant proposal replaces the proposed channel 294C3 (RM-9537) in Alberton, Montana with channel 285C3. As shown elsewhere, this can be accommodated at a fully spaced site.

**Exhibit II:** A site map showing a site that is fully accessible and developed. The site is presently in use as a lookout tower site and is known as Ward Mountain.

**Exhibit III:** A contour map showing a portion of the 70 dBu contour from the proposed allocation transmitter site as it pertains to coverage of Victor employing the facilities of a class C1 assignment. A class C1 facility permits an effective radiated power of 50 kilowatts at a height above average terrain of 299 meters. The height above average terrain from the instant site is 1048.0 meters AMSL. The equivalent radiated power under this condition is 4.7 kilowatts.

The contour map shows the proposed community of license clearly within the 70 dBu contour as required by 47 C.F.R. Section §73.315.

**LIEBERMAN & WALISKO**  
*CONSULTING TELECOMMUNICATIONS ENGINEERS*  
11403 GILSAN ST.  
SILVER SPRING, MD 20902

---

Idaho Broadcasting Consortium, Inc. - Victor, MT

**ENGINEERING STATEMENT (Cont'd)**

**Exhibit IV:** A profile plot of the path from the proposed allocation site toward Victor. The plot shows no terrain obstructions to impair line of sight as required by 47 C.F.R. Section §73.315.

**Exhibit V:** An FM channel spacing study showing that channel 285C3 may be employed at Alberton, Montana in lieu of proposed channel 294C3 from a site whose coordinates are NL 47° 02" 06" WL 114° 33' 27". This study was conducted under 47 C.F.R. Section §73.207.

**Exhibit VI:** A site map showing the proposed allocation site approximately 7.2 kilometers Northwest of Alberton. This site is close to Alberton and without terrain obstructions as shown in Exhibit VII. The proximity of the proposed allocation transmitter site to the proposed City of License obviates the need to demonstrate 70 dBu service over the community.

**Exhibit VII:** A profile plot of the path between the instant proposed allocation site and the proposed City of License. The path is clear and demonstrates line of sight between the transmitter and City of License as required by 47 C.F.R. Section §73.315.



**LIEBERMAN & WALISKO**  
*CONSULTING TELECOMMUNICATIONS ENGINEERS*  
11403 GILSAN ST.  
SILVER SPRING, MD 20902

---

NEW - Victor, Montana

Figure I

**FM CHANNEL SPACING STUDY**

Job title: VICTOR, MT  
Channel: 294C1

Latitude: 46 10 7  
Longitude: 114 17 6

| CH                 | Call   | Record | City       | ST | Status | Bear. | Dist. | Reqd.<br>Dist. | Result |
|--------------------|--------|--------|------------|----|--------|-------|-------|----------------|--------|
| 295A               | KMSMFM | 22453  | Butte      | MT | LIC    | 96.8  | 134.8 | 133.0          | 1.8    |
| 240C3 <sup>1</sup> | KBMG   | 22859  | Hamilton   | MT | LIC    | 30.3  | 7.8   | 24.0           | -16.2  |
| 240C3 <sup>1</sup> | KBMG   | 22860  | Hamilton   | MT | DEL    | 30.3  | 7.8   | 24.0           | -16.2  |
| 294C3 <sup>2</sup> |        | 22879  | Alberton   | MT | ADD    | 351.3 | 93.7  | 211.0          | -117.3 |
| 294C2 <sup>3</sup> |        | 22880  | Frenchtown | MT | ADD    | 2.4   | 94.2  | 224.0          | -129.8 |
| 294A               |        | 23449  | Mccall     | ID | VACANT | 225.9 | 199.3 | 200.0          | -.7    |
| 294C2              |        | 23450  | McCall     | ID | VACANT | 230.7 | 239.0 | 224.0          | 15.0   |
| 294C2              | NEW    | 23458  | McCall     | ID | APP    | 228.8 | 193.3 | 224.0          | -30.7  |
| 295C               | KMOK   | 23859  | Lewiston   | ID | LIC    | 279.7 | 214.5 | 209.0          | 5.5    |

\*\*\*\*\* End of channel 294 study \*\*\*\*\*

1. Under RM-9380, KBMG-FM, Hamilton, MT would move to 242C.
2. Under the instant proposed Rule Making, channel 294C3 at Alberton, MT would be replaced with channel 285C3.
3. A PRM to add channel 294C2 to Frenchtown, MT (RM-9489) has been withdrawn by the proponent.

Idaho Broadcasting Consortium, Inc.

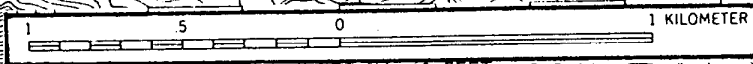
**PROPOSED TRANSMITTER  
SITE MAP**

June 1999

Lieberman & Walisko

**FIGURE II**

Map Source  
USGS 1:24,000  
Ward Mtn, MT



46° 12' 30"

12' 30"

5120

5119

5118

5117

10'

114° 15' 00"

F O R E S T

Fully Spaced Site

Lookout Tower  
9/19

Ward Mountain

WARD MOUNTAIN

Judd Creek

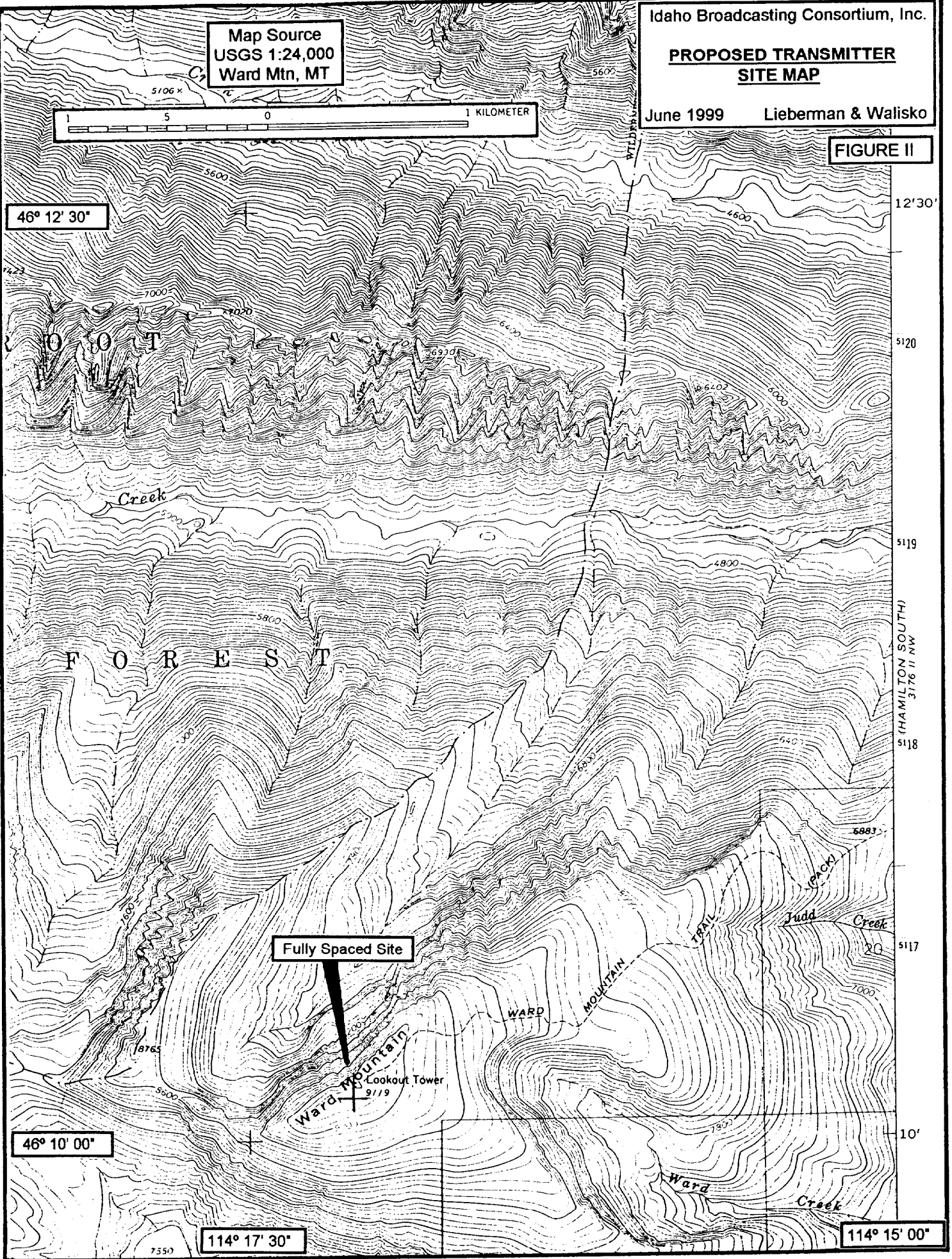
TRAIL

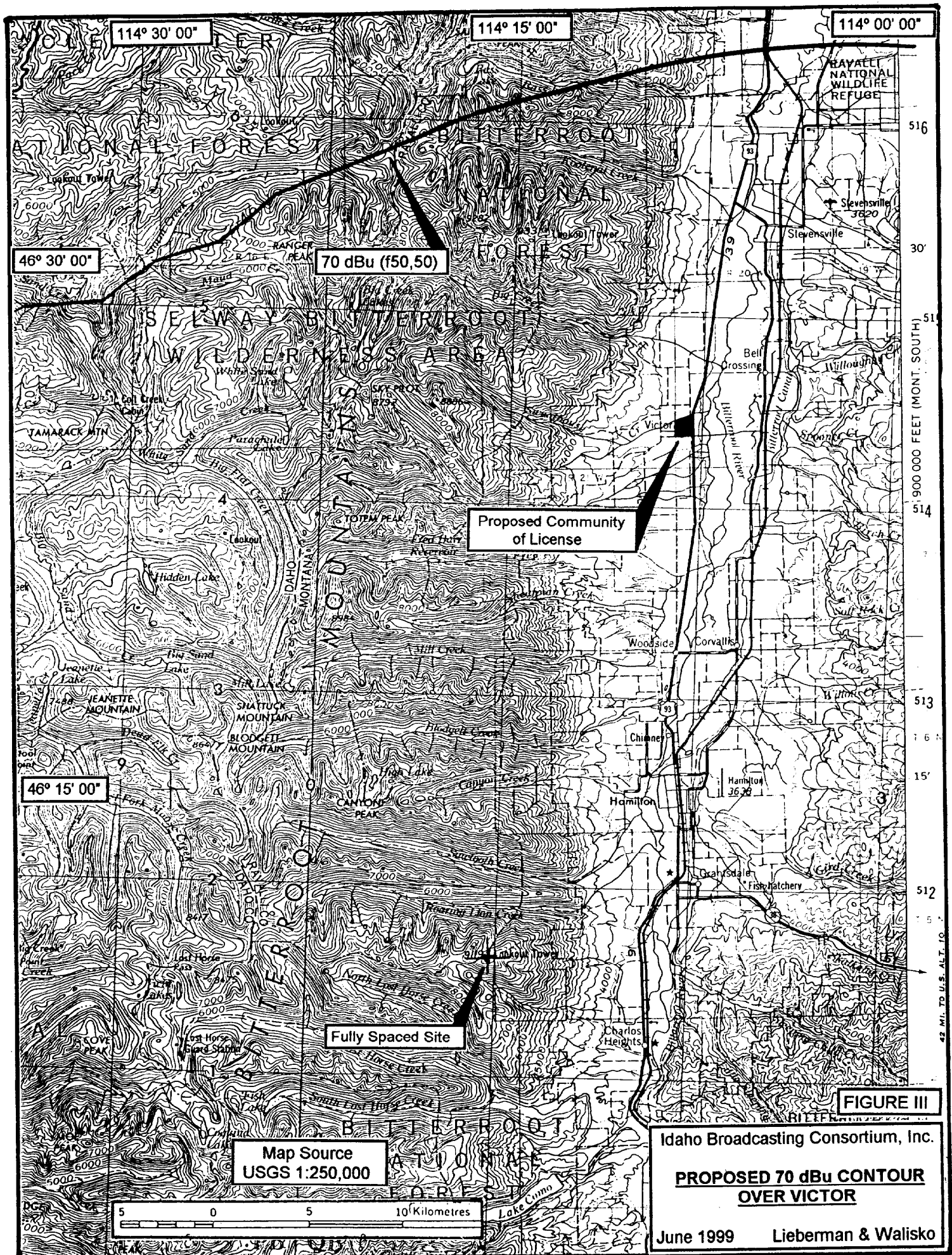
Ward Creek

Creek

46° 10' 00"

114° 17' 30"

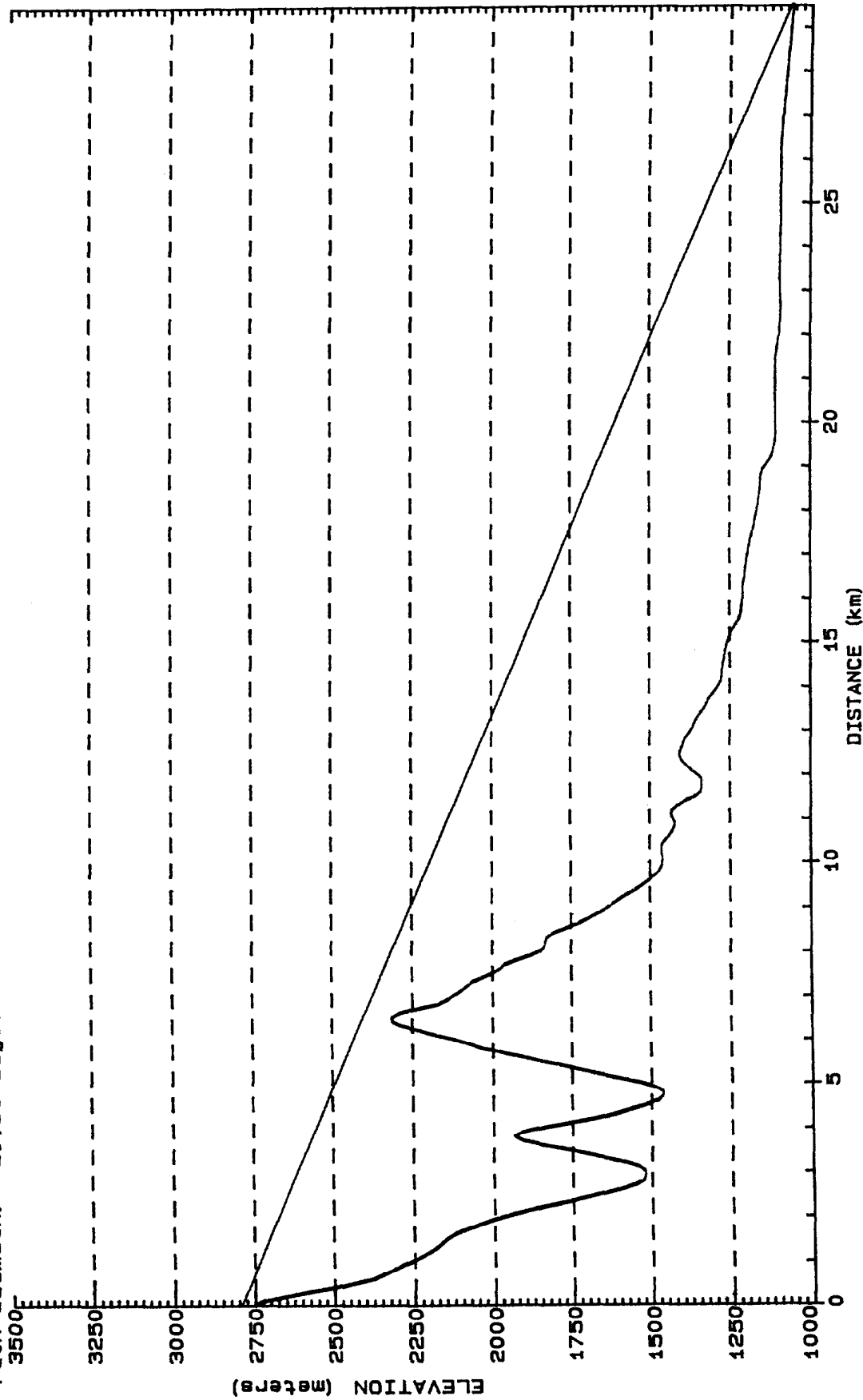




Site: PROPOSED VICTOR  
N 46 10 7 W 114 17 6  
Ant. Elev. (AMSL): 2792.0 m  
Path azimuth: 20.56 degs.

Frequency: 106.7 MHz  
Path Length: 29.5 km  
Total Path Loss: 105.1 dB  
Excess Path Loss: 2.7 dB

Site: VICTOR, MT  
N 46 25 0 W 114 9 0  
Ant. Elev. (AMSL): 1062.9 m  
Path azimuth: 200.66 degs.



K factor: 1.333  
Fresnel Zone: .60  
3 Second Database - NAD 27  
Rain loss: .0 dB  
Urban loss: .0 dB  
Foliage loss: .0 dB

Lieberman & Wallisko  
Consulting Engineers  
Silver Spring, MD

Idaho B'dcasting Cons., Inc

## PATH PROFILE

Line of Sight Clearance

June 1999

Figure IV

**LIEBERMAN & WALISKO**  
*CONSULTING TELECOMMUNICATIONS ENGINEERS*  
11403 GILSAN ST.  
SILVER SPRING, MD 20902

---

NEW - Alberton, Montana

Figure V

**FM CHANNEL SPACING STUDY**

Job title: ALBERTON, MT  
Channel: 285C3

Latitude: 47 2 6  
Longitude: 114 33 27

| CH   | Call   | Record | City         | ST | Status | Bear. | Dist. | Reqd.<br>Dist. | Result |
|------|--------|--------|--------------|----|--------|-------|-------|----------------|--------|
| 285C | NEW    | 22024  | Cascade      | MT | APP    | 85.8  | 269.6 | 237.0          |        |
| 285C | NEW    | 22025  | Cascade      | MT | APP    | 79.7  | 260.6 | 237.0          | 23.6   |
| 285C |        | 22026  | Cascade      | MT | VACANT | 77.0  | 240.1 | 237.0          | 3.1    |
| 285C | NEW    | 22027  | Cascade      | MT | APP    | 85.8  | 269.6 | 237.0          |        |
| 285C | NEW    | 22028  | Cascade      | MT | APP    | 79.4  | 254.0 | 237.0          | 17.0   |
| 287C | KMTXFM | 22452  | Helena       | MT | LIC    | 99.9  | 172.8 | 96.0           |        |
| 283A |        | 22869  | Stevensville | MT | VACANT | 148.5 | 68.8  | 42.0           | 26.8   |
| 286A |        | 22910  | Whitefish    | MT | VACANT | 6.0   | 153.9 | 89.0           |        |
| 284C |        | 23145  | Cranbrook    | BC | VACANT | 344.0 | 281.1 | 195.0          |        |
| 284C | NEW    | 23146  | Cranbrook    | BC | VACANT | 344.0 | 281.1 | 195.0          |        |
| 285A | KMJYFM | 23913  | Newport      | WA | LIC    | 304.9 | 224.1 | 142.0          |        |

\*\*\*\*\* End of channel 285 study \*\*\*\*\*

## PROPOSED TRANSMITTER SITE MAP

FIGURE VI

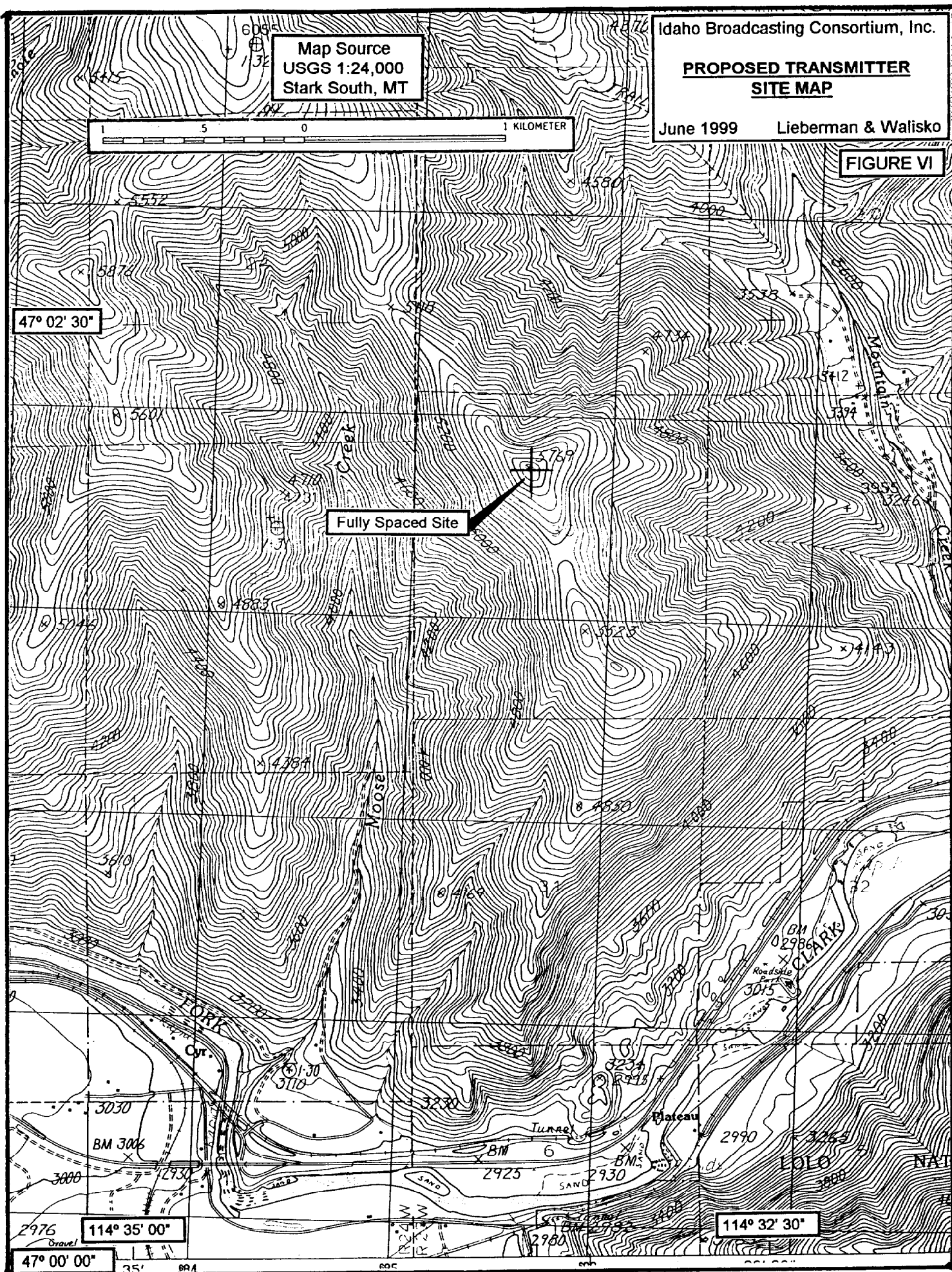
47° 02' 30"

### Fully Spaced Site

2976 114° 35' 00"

47° 00' 00"

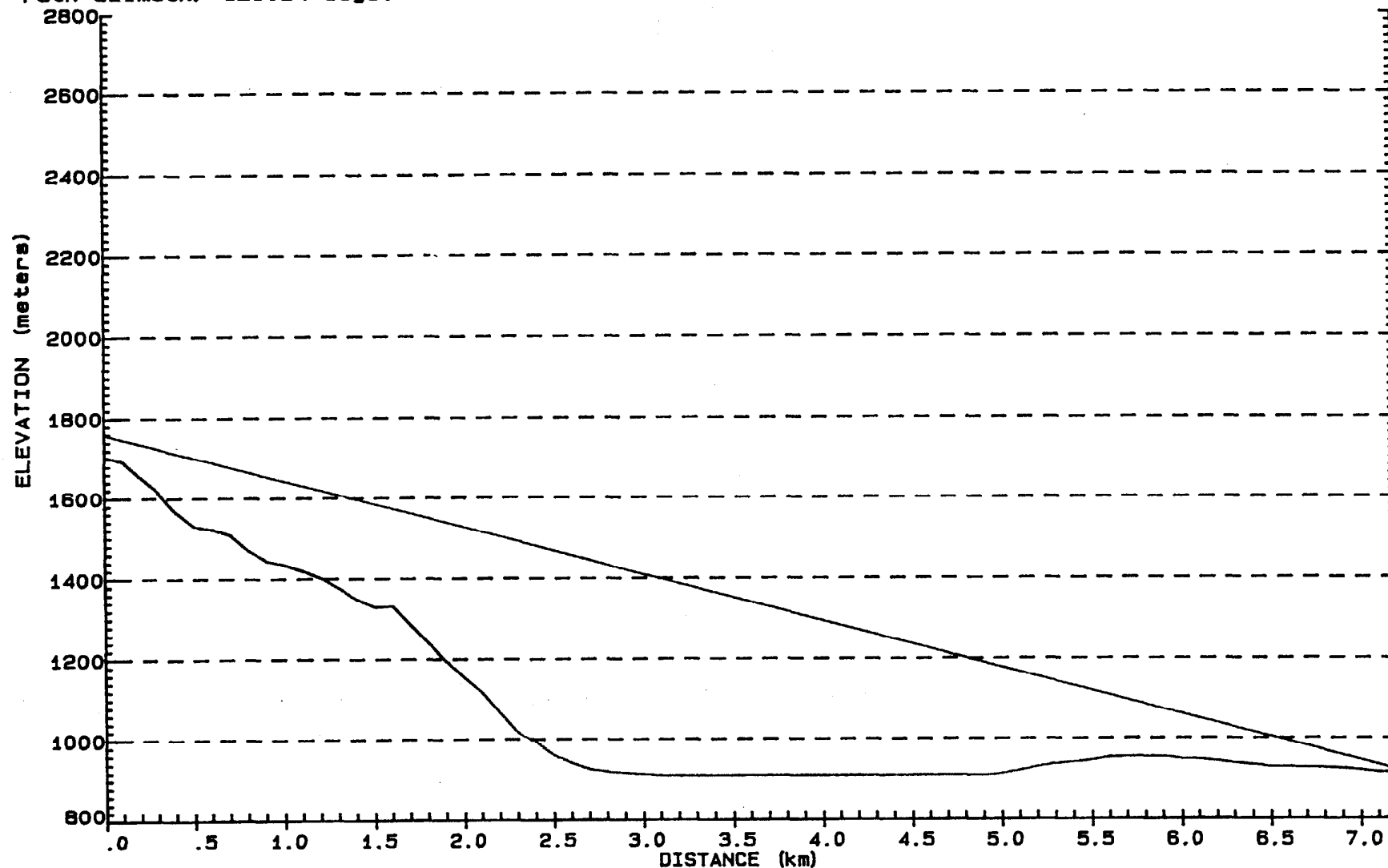
114° 32' 30"



Site: PROPOSED ALBERTON  
N 47 2 8 W 114 33 27  
Ant. Elev. (AMSL): 1758.3 m  
Path azimuth: 120.54 degs.

Frequency: 104.9 MHz  
Path Length: 7.2 km  
Total Path Loss: 90.0 dB  
Excess Path Loss: .0 dB

Site: ALBERTON, MT  
N 47 0 8 W 114 28 34  
Ant. Elev. (AMSL): 921.5 m  
Path azimuth: 300.60 degs.



K factor: 1.333  
Fresnel Zone: .60  
3 Second Database - NAD 27  
Rain loss: .0 dB  
Urban loss: .0 dB  
Foliage loss: .0 dB

Lieberman & Walisko  
Consulting Engineers  
Silver Spring, MD

Idaho B'dcasting Cons., Inc

## PATH PROFILE

Line of Sight Clearance

June 1999

Figure VII

**LIEBERMAN & WALISKO**  
**CONSULTING TELECOMMUNICATIONS ENGINEERS**  
11403 GILSAN ST.  
SILVER SPRING, MD 20902

---

NEW - Victor, Montana

**DECLARATION**

**MELVYN LIEBERMAN**, declares and certifies as follows:

That he is associated with the firm of **LIEBERMAN & WALISKO, Inc.**;

That this firm has been retained by **Idaho Broadcasting Consortium, Inc.** to prepare this Engineering Statement;

That his qualifications are a matter of record with the Federal Communications Commission;

That he has either prepared or directly supervised the preparation of all technical material contained in this engineering statement and that the facts stated in this report are true of his knowledge and belief except as to such statements as are herein stated to be on information and belief and as to such statements, he believes them to be true.

6/17/1999

Date

Melvyn Lieberman

Melvyn Lieberman



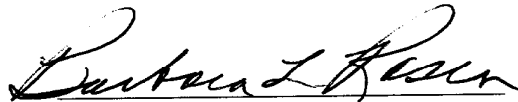
CERTIFICATE OF SERVICE

The undersigned, an employee of Haley Bader & Potts P.L.C., hereby certifies that the foregoing document was mailed this date by First Class U.S. Mail, postage prepaid, or was hand-delivered\*, to the following:

Mountain West Broadcasting  
c/o Victor A. Michael, President  
6807 Foxglove Drive  
Cheyenne, Wyoming 82009

Battani Corporation  
Robert Lewis Thompson  
Taylor Thiemann & Aitken, L.C.  
908 King Street, Suite 300  
Alexandria, Virginia 22314

John A. Karousos  
Chief, Allocations Branch  
Policy and Rules Division  
Mass Media Bureau  
Federal Communications Commission  
455 Twelfth Street, S.W., Room 3-A266  
Washington, D.C. 20554

A handwritten signature in cursive script, appearing to read "Barbara L. Rosen", written in dark ink.

June 21, 1999